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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,978	03/23/2004	John R. McClure	17592	2254

25542 7590 06/14/2005

CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
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EXAMINER

GERRITY, STEPHEN FRANCIS

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/806,978

Applicant(s)

MCCLURE ET AL

Examiner

Stephen F. Gerrity

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/23/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. Receipt is acknowledged of an Information Disclosure Statement, filed 23 March 2004, which has been placed of record in the file. An initialed, signed and dated copy of the PTO-1449 form is attached to this Office action.

Drawings

2. The drawings are objected to because of the reasons set forth on the attached form PTO-948. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because at page 5, paragraph [0020], line 4, the number "3,901,077" should be --3,901,007--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 and claim 8 each recites the limitation "the roughened surfaces" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 presently depends from claim 7 and the combination of the roughened surfaces comprising polyester as well as a layer of paint containing a grit-like material would appear to be indefinite, as the two (polyester and paint containing a grit-like material) are not disclosed as being used together. It is suggested that claim 8 be amended to depend from claim 6 as opposed to claim 7.

Claim Rejections - 35 USC § 103

6. Claims 1, 6, 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art (**AAPA**) in view of Bargholtz et al. (**US 4,700,529**).

The applicant has admitted, at pages 1 and 2, and in that the claims are presented in Jepson format (see MPEP § 2129), that the round baling machine and

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method of wrapping a round bale are old and well known in the art, the subject matter differs from what is admitted to be old and well known in that each of the surfaces of the dispensing mechanism that contact the stretch film is roughened to prevent the stretch film from adhering to such surfaces. The Bargholtz et al. reference discloses a machine and method for banding a roll of material with a stretch-cling film wrap material. At col. 5, lines 54-58, Bargholtz et al. discloses that the surface (102) may be roughened by sand blasting or a plasma coating to reduce the possibility that the upper end of the film segment adheres to the surface. It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified AAPA round baler and method of baling by having each of the surfaces of the dispensing mechanism of the AAPA round baler that contact the stretch film roughened to prevent the stretch film from adhering to such surfaces, as suggested by Bargholtz et al., in order to have the stretch material flow without adhesion to the surfaces contacted. Regarding claims 6, 11 and 15, the language in each claim "low wettability characteristics" and "to reduce the wettability" are considered met by the combination of AAPA as modified by Bargholtz et al., based on applicant's disclosure "The roughening process reduces the wettability of the surface" (see page 6, paragraph [0022]).

7. Claims 2-5, 7-10, 12-14, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 1, 6, 11 and 15 above, and further in view of Barton et al. (**US 6,503,432**) and Tomel, Jr. (**US 6,692,835**).

Regarding claims 2 and 7, applicant's admitted prior art (AAPA), as modified by Bargholtz et al., meets all of the claimed subject matter with the exception of the

roughened surfaces including polyester. The Barton et al. reference discloses that the use of polyester to prevent material from adhering to a roll is old and well known (see paragraph bridging columns 6 and 7), and the Tomel, Jr. reference also discloses that the use of polyester as a slip coating to prevent adhesion is likewise old and well known (see paragraph bridging columns 1 and 2). It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have further modified AAPA round baler and method of baling by having included polyester with the roughened surfaces, as suggested by Barton et al. and Tomel, Jr., in order to make use of a known material (polyester) for its known property of preventing adhesion between itself and other materials.

Further, regarding claims 13 and 17, the Tomel, Jr. reference discloses that it is old and well known to provide a slip coating by "coating" by any means such as painting, spraying, dipping, brushing, vapor deposition, or any other method (see col. 3, last paragraph). Accordingly, it would have been likewise obvious to have provided the polyester material in the now modified AAPA round baler and method by coating or painting the surfaces, in order to provide the polyester material to prevent adhesion by any one of many different old and well known "coating" techniques.

Regarding claims 3, 8, 14 and 16, the now modified AAPA differs from the claimed subject matter in that it does not disclose coating the surfaces with a paint containing grit-like material. The examiner takes OFFICIAL NOTICE that the use of a coating of paint containing grit-like material is old and well known for its adhesion preventing ability. It would have been obvious to one having ordinary skill in the art, at

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the time applicant's invention was made, to have further modified AAPA round baler and method of baling by having had the surfaces coated with a paint containing grit-like material, in order to make use of a "coating" well known for its adhesion preventing ability. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the round baler and method of AAPA to have included paint containing grit-like material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Regarding claims 4, 5, 9, 10 and 12, as stated above in this Office action, applicant has admitted that netwrap, as well as, stretch film are old and well known, as the round baler of applicant's admitted prior art is fully "capable" of using either netwrap or stretch film.

Conclusion

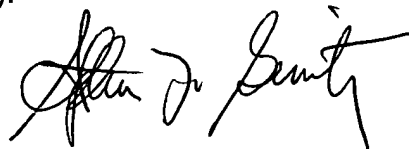
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references listed on the attached form (PTO-892) are cited to show round baling machines and methods, as well as, materials used to prevent adhesion between materials. All are cited as being of interest and to show the state of the prior art.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen F. Gerrity whose telephone number is (571) 272-4460. The examiner can normally be reached on Monday - Friday from 5:30 - 2:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Stephen F. Gerrity", with a stylized flourish at the end.

Stephen F. Gerrity
Primary Examiner
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11 June 2005